



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

July 10, 2018

BY ECF AND EMAIL

Honorable Alison J. Nathan
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Michael Siva et al.*, 17 Cr. 503 (AJN)

Dear Judge Nathan:

The Government and the defendants through their respective counsel jointly submit this letter to respectfully request that Your Honor schedule a status conference at a time convenient for Your Honor at or after 3:00PM on Monday July 16, 2018 or Tuesday July 17, 2018 to address the trial schedule in this case in light of a scheduling conflict for counsel for one of the defendants if this case proceeds to trial on September 10, 2018 per the current schedule in this case. In the event that this scheduling conflict is resolved and this case proceeds to trial on September 10, the parties have agreed upon and jointly propose below a schedule for specified pretrial disclosures described below (the "Pretrial Disclosures") to supplement the schedule for pretrial submissions set forth in the Court's Order of July 6, 2018 (Dckt. 56), and separately, the parties also memorialize below for Your Honor's information the parties' agreement on pretrial exchanges of witness materials subject to disclosure under 18 U.S.C. § 3500 or Rule 26.2 of the Federal Rules of Criminal Procedure (the "Witness Materials"). If the September 10 trial date is adhered to, the parties jointly request that Your Honor endorse the parties' proposed schedule for the Pretrial Disclosures described below. The parties' agreed upon schedule for exchanges of Witness Materials in the event of a September 10 trial in this case, as set forth below, is provided only for the Court's information.

The scheduling conflict that gives rise to the parties' request for a status conference is as follows. As Your Honor is aware, defendants Michael Siva, Rodolfo Sablon, Roberto Rodriguez, Jhonatan Zoquier and Jeffrey Rogiers are currently scheduled to proceed to trial beginning on September 10, 2018 before Your Honor in this case.¹ However, the Government has been informed by Jeremy Schneider, Esq., counsel for defendant Zoquier, that Mr. Schneider is also scheduled to begin a trial on September 11, 2018 before Your Honor that is expected to last several

¹ The Government has extended formal written plea offers to two of the defendants as a result of discussions with their respective counsel, and has been discussing potential resolutions of this case with counsel for the remaining defendants. Based on these discussions to date, the Government currently believes it is likely that at least defendants Zoquier and Rogiers will proceed to trial.

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weeks on behalf of a defendant (Juan Rivera) who is charged with conspiring to kidnap a victim resulting in death and other charges in *United States v. Robert Pizarro, et al.*, 17 Cr. 151 (AJN).

In the event that this scheduling conflict is resolved and this case proceeds to trial on September 10 as currently planned, the parties have agreed upon and jointly request Your Honor's endorsement of the following schedule for the Pretrial Disclosures described below. The parties also memorialize below for Your Honor's information the parties' agreement on pretrial exchanges of the Witness Materials described below if this case proceeds to trial on September 10.

Pretrial Disclosures. With respect to the Pretrial Disclosures described below, the parties have agreed to the following schedule for making these Pretrial Disclosures and that all efforts to provide their respective disclosures will be made in good faith, without prejudice to supplementing such disclosures:

- ***Rule 16(b) Discovery.*** With respect to materials discoverable under Federal Rule of Criminal Procedure 16(b), each of the defendants must produce by no later than Friday, July 20, 2018 any materials subject to disclosure under Rule 16(b).
- ***Expert Discovery.*** By no later than Friday, July 27, 2018, the Government must provide notice of any expert witnesses it intends to call during its case-in-chief at trial and produce any expert materials subject to discovery under Federal Rule of Criminal Procedure 16(a)(1)(G), and each of the defendants must provide notice of any expert witnesses he intends to call during his case-in-chief at trial and produce any expert materials subject to discovery under Federal Rule of Criminal Procedure 16(b)(1)(C).
- ***Rule 404(b) Notice.*** The Government must give notice by no later than Monday, July 23, 2018 of any uncharged crimes, wrongs or other acts of any of the defendants that the Government intends to offer proof of pursuant to Federal Rule of Evidence 404(b) during its case-in-chief at trial.
- ***Stipulations.*** With respect to proposed stipulations provided to the defendants on or before Thursday, August 2, 2018 by the Government, the defendants must either provide the Government with signed copies of the proposed stipulations or inform the Government of any proposed stipulations that any of the defendants declines to sign by Saturday, August 4, 2018.
- ***Exhibits and Related Materials.*** By Saturday, August 11, 2018, the Government must produce the exhibits that the Government intends to offer during its case-in-chief at trial, a list of those exhibits, and a list of witnesses whom the Government intends to call during its case-in-chief at trial. By Saturday, August 18, 2018, each of the defendants must produce the exhibits that he intends to offer during his case-in-chief at trial, a list of those exhibits, and a list of witnesses whom he intends to call during his case-in-chief at trial.

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Witness Materials. Subject to the defendants' good faith and reasonable efforts to enter into stipulations that spare the Government the time and resources of preparing and calling custodial witnesses and the like (and conserve the time and resources of the Court and the affected witnesses), the Government agrees to produce witness statements and materials subject to disclosure under 18 U.S.C. § 3500 to the defendants by Saturday, August 11, 2018. The defendants agree to produce witness statements and materials subject to disclosure under Federal Rule of Criminal Procedure 26.2 to the Government by Saturday, August 18, 2018.

For the reasons set forth above, the parties jointly request that Your Honor schedule a status conference at a time convenient for Your Honor at or after 3:00PM on July 16 or 17, 2018 to address the trial schedule in this case. In the event that this case proceeds to trial on September 10, 2018 as currently planned, the parties also jointly request that Your Honor endorse the schedule proposed above for the Pretrial Disclosures. As noted, the parties' agreed upon schedule for exchanges of the Witness Materials if the September 10 trial date is adhered to is provided only for Your Honor's information.

Respectfully submitted,

GEOFFREY S. BERMAN

United States Attorney

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cc: All counsel of record